**In the High Court of Punjab and Haryana, Chandigarh.**

**Civil Revision No. 5349 of 2007**

Date of Decision: 20.12.2007

Inderjit Singh

…Petitioner

Versus

Jagjit Singh and Others

…Respondents

**CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL**

Present: Mr. P.K.Gupta, Advocate
for the petitioner.

Mr. P.S.Dhaliwal, Advocate
for respondent No.1.

**RAJESH BINDAL, J.**

The challenge in the present petition is to the order dated September 24, 2007 passed by learned Additional District Judge, Patiala, whereby the order dated November 16, 2006 passed by learned Civil Judge (Junior Division), Patiala, was reversed in an application under Order 39 Rules 1 and 2 CPC.

The present proceedings arise out of a suit for permanent injunction filed by the petitioner/plaintiff restraining the defendants from interfering into his peaceful possession of the suit land. The trial Court had granted status quo regarding possession during the pendency of the suit, however, learned lower Appellate Court vacated the interim order primarily on the ground that even if the mutation entered into in favour of the respondents/defendants has been set aside but still the khasra girdawaries remain in their name.

Heard learned counsel for the parties and perused the paper book.

While accepting the appeal of the respondents/defendants, learned lower Appellate Court opined that the plaintiffs have not been able to prove their possession over the suit land. Firstly, if this finding is recorded at the

interim stage that may have bearing even on the suit filed by the petitioner/plaintiff. Further it is not disputed that on the basis of the will executed by Shiv Dhian Singh on April 6, 1988, mutation was entered in favour of the defendants without issuing notice to the petitioner who otherwise is one of the legal heirs. The mutation so sanctioned in favour of the respondents/defendants was entered into the khasra girdawari for the year 2001-2002, however, for the period prior thereto the plaintiffs were shown to be in possession of the land. Submission of the petitioner is that the entry was only regarding change of ownership as there was nothing to show that even the possession of the land was delivered by the petitioner/plaintiff to the respondents/defendants. Still further he submitted that there was no reason for him to deliver the possession when he was even contesting the mutation entered.

On the other hand, learned counsel for respondent No.1 submitted that in fact he is in possession of the land as at the time of execution of sale deed in his favour he was delivered possession of the land.

Be that as it may in the absence of evidence on record, this Court is not in a position to opine finally on the contention raised by both the parties where both of them claim that they are in possession of the suit land. Accordingly, it is directed that the parties shall maintain status quo regarding possession during the pendency of the suit.

The revision petition is disposed of in the manner indicated above.

**(Rajesh Bindal)**
**Judge**

**December 20, 2007**
**"DK"**